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November 2, 2006

TO: Examiner Manjunath Rao  
Group 1652  
(571) 272-0939

FROM Justin D. Karjala  
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# OF PAGES (incl. cover): 7

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Re: U.S. Serial No. 10/827,272, filed April 20, 2004  
Entitled "ISOLATED HUMAN KINASE PROTEINS, NUCLEIC ACID  
MOLECULES ENCODING HUMAN KINASE PROTEINS, AND USES  
THEREOF"  
Attorney Docket No.: CL001313-DIV

A Preliminary Amendment (Restriction Election) in the above-identified application follows. No fee is due for this submission.

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## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: Zhaoxi KE et al.

Art Unit: 1652

Serial No.: 10/827,272

Examiner: M. Rao

Filed: April 20, 2004

Atty. Docket: CL001313-DIV

For: ISOLATED HUMAN KINASE PROTEINS,  
NUCLEIC ACID MOLECULES ENCODING  
HUMAN KINASE PROTEINS, AND USES  
THEREOF

## PRELIMINARY AMENDMENT

Honorable Commissioner of  
Patents and Trademarks  
Washington, D.C. 20231*By Facsimile*

Sir:

This is in response to an Office Action mailed on October 2, 2006 from Examiner Rao in which a restriction requirement was issued for the above-referenced application.

In response to the restriction requirement, Applicants hereby elect, with traverse, claim group II (claim 3, drawn to antibodies) for examination and have canceled claims corresponding to the non-elected groups III-XI.

However, applicants respectfully request that the Examiner reconsider the claim division of the restriction requirement and combine group II (drawn to antibodies) with group I (drawn to polypeptides).

In particular, examination of the antibody claims of group II, in which the antibodies claimed in the group II claims selectively bind the polypeptides that are claimed in the group I claims (as in the instant situation), is based in part on search and examination of the amino acid sequence of the polypeptides claimed in the group I claims. Therefore, because the search and examination necessary to examine the claims of group II inherently includes a search of the amino acid sequence of the polypeptides claimed in the group I claims, a search and examination of the group II claims inherently

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Serial No. 10/827,272

includes a search and examination of the group I claims. Thus, it is believed that the effort required to search and examine both groups I and II together is not substantially greater than the effort required to search and examine group II alone, and therefore search and examination of the claims of groups I and II combined would not unduly burden the Examiner with additional review issues.

Accordingly, Applicants are hereby amending claim 3 and presenting new claims 24-36 drawn to antibodies and respectfully request entry, search, and examination of these antibody claims. Additionally, should the Examiner reconsider the restriction requirement based on the above remarks and combine group I (polypeptides) with group II (antibodies), Applicants are also hereby amending claims 1-2 and presenting new claims 37-38 drawn to polypeptides and respectfully request entry, search, and examination of these polypeptide claims together with the antibody claims.

Please amend the application as follows: